

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 KATHLEEN B.Y. LAM, State Bar No. 95379
Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101
5
6 P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2091
7 Facsimile: (619) 645-2061
8 Attorneys for Complainant
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10 **BEFORE THE**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. VN-2006-78

15 CONSUELO VIZMANOS SHAW,
a.k.a. CONSUELO SHAW
16 6212 Plateau Drive
San Diego, California 92139

A C C U S A T I O N

17 Vocational Nurse License No. VN 185231

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this
22 Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational
23 Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

24 2. On or about July 24, 1998, the Bureau issued Vocational Nurse License
25 Number VN 185231 to Consuelo Vizmanos Shaw, also known as Consuelo Shaw
26 ("Respondent"). Respondent's vocational nurse license was in full force and effect at all times
27 relevant to the charges brought herein, but expired on December 31, 2007.

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STATUTORY AND REGULATORY PROVISIONS

3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that the Bureau may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with Code section 2875) of the Vocational Nursing Practice Act.

4. Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

5. Code section 2878 states, in pertinent part:

The [Bureau] may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence or gross negligence in carrying out usual nursing functions . . .

6. California Code of Regulations, title 16, section ("Regulation") 2519 states:

As set forth in Section 2878 of the Code, gross negligence is deemed unprofessional conduct and is a ground for disciplinary action. As used in Section 2878 'gross negligence' means a substantial departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent licensed vocational nurse, and which has or could have resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the consumer shall be considered a substantial departure from the above standard of care.

7. Regulation 2520 states:

As set forth in Section 2878 of the Code, incompetence is deemed unprofessional conduct and is a ground for disciplinary action. As used in Section 2878 'incompetence' means the lack of possession of and the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by responsible licensed vocational nurses.

8. Regulation 2518.5 states, in pertinent part:

The licensed vocational nurse performs services requiring technical and manual skills which include the following:

(b) Provides direct patient/client care by which the licensee:

(2) Administers medications . . .

9. Regulation 2518.6 states, in pertinent part:

(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

(1) Maintaining current knowledge and skills for safe and competent practice . . .

10. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Pursuant to Code section 2892.1, the Bureau may renew an expired license at any time within four years after the expiration.

COST RECOVERY

11. Code section 125.3 provides, in pertinent part, that the Bureau may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTS

12. On or about December 23, 2005, M. T., a 79 year old female patient, was admitted to La Jolla Nursing and Rehabilitation Center ("LJNRC"), a skill nursing facility located in La Jolla, California, after receiving treatment at Scripps Memorial Hospital ("Scripps"), also in La Jolla, for fever, cough, and shortness of breath. M.T.'s medical history included dementia, breast cancer, cerebrovascular accident, gout, diabetes, and chronic atrial

1 fibrillation. On admission to LJNRC, M.T.'s physician ordered M.T. to receive Coumadin¹ 10
2 mg by mouth daily, but to hold the medication if the INR (international normalized ratio) was
3 greater than 2.7. The Daily Cumulative Summary Report dated December 23, 2005, received
4 from Scripps indicated that the laboratory results for M.T.'s INR testing of the same date were
5 "pending" and that M.T.'s previous days INR levels were 3.5, 3.2, and 2.2 for December 22, 21,
6 and 20, 2005, respectively. LJNRC's care plan for M.T. indicated that there was increased
7 potential for bleeding due to the use of the anti-coagulant for diagnosis of M.T.'s "DVT
8 prophylaxis", that M.T.'s lab values, including INR, were to be monitored and all values
9 reported to the doctor, that venipuncture sites were to be monitored for excessive bleeding, and
10 that the Coumadin was to be administered "per MD orders".

11 13. On or about January 2, 2006, Respondent administered Coumadin 10 mg
12 to M. T.

13 14. On or about January 17, 2006, it was reported that M.T. had been
14 vomiting and was diaphoretic with abnormal vital signs. LJNRC staff contacted the physician,
15 who instructed the staff to call 911 and have M.T. transported to Scripps. 911 was called at
16 approximately 1535 hours. Paramedics arrived at LJNRC at 1540 hours and transported M.T. to
17 Scripps. At approximately 1830 hours, Scripps telephoned LJNRC and informed the facility that
18 M.T. *had an IRN of 20* with massive bleeding into the brain. M.T. died on January 18, 2006.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Gross Negligence)**

21 15. Respondent is subject to disciplinary action pursuant to Code section
22 2878, subdivision (a)(1), on the grounds of unprofessional conduct. On or about January 2,
23 2006, while employed as a licensed vocational nurse at LJNRC, Respondent was guilty of gross
24 negligence in her care of patient M. T. within the meaning of Regulation 2519, as follows:

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26 _____
27 1. Coumadin is an anticoagulant medication (blood thinner). In order to optimize the therapeutic effect
28 without risking dangerous side effects, such as bleeding, close monitoring of the degree of anticoagulation is
required by blood testing for the international normalized ratio (INR).

- 1 a. Respondent failed to review M.T.'s INR test results before administering
2 the Coumadin.
- 3 b. Respondent failed to follow-up to determine why the proper lab work had
4 not been obtained.
- 5 c. Respondent failed to call M.T.'s physician for an order for INR lab work
6 and then notify the lab to perform a stat INR.
- 7 d. Respondent failed to consult with the admitting/supervising registered
8 nurse.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Incompetence)**

11 16. Complainant incorporates by reference as though fully set forth herein the
12 allegations contained in paragraphs 12 through 14, above.

13 17. Respondent is subject to disciplinary action pursuant to Code section
14 2878, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about January 2,
15 2006, while employed as a licensed vocational nurse at LJNRC, Respondent was guilty of
16 incompetence in her care of patient M. T. within the meaning of Regulation 2520, as set forth in
17 paragraph 15, above.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct)**

20 18. Complainant incorporates by reference as though fully set forth herein the
21 allegations contained in paragraphs 12 through 14, above.

22 19. Respondent is subject to disciplinary action pursuant to Code section
23 2878, subdivision (a), in that on or about January 2, 2006, while employed as a licensed
24 vocational nurse at LJNRC, Respondent committed acts constituting unprofessional conduct, as
25 set forth in paragraph 15, above.

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1 PRAYER

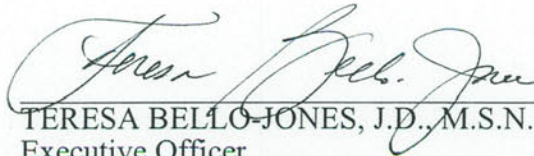
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Bureau of Vocational Nursing and Psychiatric
4 Technicians issue a decision:

5 1. Revoking or suspending Vocational Nurse License Number VN 185231,
6 issued to Consuelo Vizmanos Shaw, also known as Consuelo Shaw;

7 2. Ordering Consuelo Vizmanos Shaw, also known as Consuelo Shaw, to pay
8 the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: September 8, 2008

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15 TERESA BELLO-JONES, J.D., M.S.N., R.N.
16 Executive Officer
17 Bureau of Vocational Nursing and Psychiatric Technicians
18 Department of Consumer Affairs
19 State of California

20 Complainant
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